IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF STELLA J. KOLOC
AND ARNOLD A. KOLOC

FILED
OCT 2 8 1987
CLERK SUPREME COURT

Upon the Petition of )
**STELLA J. KOLOC,** )
Petitioner-Appellee, )
And Concerning )
**ARNOLD A. KOLOC,** )
Respondent-Appellant. )

**118**

Filed October 28, 1987

7-464
86-1145

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Appeal from the Iowa District Court for Delaware County (No. DM 686), George L. Stigler, Judge.

Respondent husband appeals the decree dissolving the parties' marriage. **AFFIRMED.**

Dan McClean of Jenk, Jenk, Goen, McClean & Goodman, Dyersville, for appellant.

Richard A. Schrodermier of Cedar Rapids for appellee.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ. Snell, J., takes no part.

**PER CURIAM** **119**

The respondent, Arnold Koloc, appeals the decree dissolving the parties' marriage. He asserts the trial court's division of the marital property is inequitable. The petitioner, Stella Koloc, requests attorney fees for this appeal. We affirm.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. We review the facts and law and determine the parties' rights anew where issues have properly been presented and preserved. In re Marriage of Phipps, 379 N W.2d 26, 27 (Iowa App. 1985).

Arnold Koloc claims the property settlement was inequitable because it gave Stella 91 percent of the marital assets. He argues the court reached this decision through a misapplication of In re Marriage of Cerven.

The record reveals that Arnold is a journeyman electrician and has a gross monthly income of $2,700, while Stella, who manages a cafe, has a gross monthly income of $800-$1,000. The record also reveals that, prior to the dissolution, Arnold misappropriated over $30,000 of marital assets to his own purposes. The trial court took this factor into account when making the property division.

Iowa Code section 598.21(1)(m) allows the trial court to consider "[o]ther factors the court may determine to be relevant in an individual case." The supreme court has upheld the consideration of "sham" transfers and the misappropriation of funds in making a property distribution. See In re Marriage of Johnson, 350 N.W.2d 199, 201-202 (Iowa 1984) (misappropriation); In re Marriage of Cerven, 335 N.W.2d 143, 146 (Iowa 1983) ("sham" transfers). After considering the various factors set forth in Iowa Code section 598.21 and Arnold's financial abuses, we find the property to be fair and equitable and find no reason to disturb the trial court's distribution.

Stella Koloc also requests attorney fees for this appeal. In a dissolution action, attorney fees are not awarded as a matter of right. In re Marriage of Butler, 346 N.W.2d 45, 47 (Iowa App. 1984). We look at the respective parties' ability to pay. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa App. 1981). We have considered Stella's fee request and order Arnold to pay $900 toward Stella's appellate fees.

**AFFIRMED.**